

# **EXCERPTS**

**DISSENTIENT SCHOOLS, LOWER CANADA**

**SEPARATE SCHOOLS, UPPER CANADA**

**THE EDUCATIONAL CLAUSE**

**OF THE**

**BRITISH NORTH AMERICA ACT**

9 VICTORIA, CHAPTER 27.

AN ACT to repeal certain enactments therein mentioned, and to make better provision for Elementary Instruction in Lower Canada.

(9th June, 1846.)

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Section 26. And be it enacted, that when in any municipality, the regulations and arrangements made by the School Commissioners for the conduct of any school, shall not be agreeable to any number whatever of the inhabitants professing a religious faith different from that of the majority of the inhabitants of such municipality, the inhabitants so dissentient may collectively signify such dissent in writing to the chairman of the said Commissioners and give in the names of three trustees chosen by them for the purposes of this Act; and such trustees shall have the same powers and be subject to the same duties as School Commissioners, but for the management of those schools only which shall be under their control; and such dissentient inhabitants may, by the intervention of such trustees, establish in the manner provided with regard to other schools, one or more schools, which shall be subject to the same provisions, duties and supervision, and they shall be entitled to receive from the superintendent or from the School Commissioners, such sum out of the general or local school fund as shall be proportionate to the dissentient population they represent; Provided always, that whenever the majority of the children attending any school now in operation, and the school house, shall belong to or be occupied by such dissentients, the said school house shall continue to be occupied by them so long as the number of children taught in such school shall amount to the number required by this Act to form a school district, and the entire amount of monies raised by assessment on such dissentients shall be paid to the trustees of such school, together with a due proportion of the building fund.

Section 27. And be it enacted, That to entitle any school to its allowance out of the general or local school fund, it shall be requisite and sufficient that such school has been under the management of School Commissioners or trustees appointed in the manner provided by the next preceding section; that it has been in actual operation during at least eight calendar months; that it has been attended by at least fifteen children (periods of epidemic or contagious diseases excepted); that the returns have been certified to by the School Commissioners or trustees by the master, mistress or teacher, and at least two of the commissioners or trustees; that a public examination of the schools has taken place; that a report signed by the majority of the school commissioners or trustees, and by the master has been transmitted to the superintendent of schools, according to the form prescribed by him for that purpose, every six months, that is to say, before the first day of July, and the first day of January, in each year; and finally, that a sum equal to the allowance made by the Legislature for the municipality, has been raised as hereinbefore provided.

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## CAP. V.

26 Victoria.

**An Act to restore to Roman Catholics in Upper Canada certain rights in respect to separate schools.**

(Assented to 5th May, 1863.)

Whereas it is just and proper to restore to Roman Catholics in Upper Canada certain rights which they formerly enjoyed in respect to separate schools, and to bring the provisions of the law respecting separate schools more in harmony with the provisions of the law respecting common schools: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. Sections eighteen to thirty-six, both inclusive, of chapter sixty-five of the Consolidated Statutes for Upper Canada, intituled: "An Act respecting Separate Schools," are hereby repealed, and the following shall be substituted in lieu thereof, and be deemed to form part of the said Act.

2. Any number of persons, not less than five, being heads of families, and freeholders or householders, resident within any school section of any township, incorporated village or town, or within any ward of any city or town, and being Roman Catholics, may convene a public meeting of persons desiring to establish a separate school for Roman Catholics, in such school section or ward, for the election of trustees for the management of the same.

3. A majority of the persons present, being freeholders or householders, and being Roman Catholics, and not candidates for election as trustees, may, at any such meeting, elect three persons resident within such section or an adjoining section to act as trustees for the management of such separate school; and any person, being a British subject, not less than twenty-one years of age, may be elected as a trustee, whether he be a freeholder or householder or not.

4. Notice in writing that such meeting has been held and of such election of trustees, shall be given by the parties present at such meeting to the reeve or head of the municipality, or to the chairman of the board of common school trustees, in the township, incorporated village, town or city in which such school is about to be established, designating by their names, professions and residences, the persons elected in the manner aforesaid, as trustees for the management thereof; and every such notice shall be delivered to the proper officer by one of the trustees so elected, and it shall be the duty of the officer receiving the same to endorse thereon the date of the receipt thereof, and to deliver a copy of the same so endorsed and duly certified by him to such trustee, and from the day of the delivery and receipt of every such notice, or in the event of the neglect or refusal of such officer to deliver a copy so endorsed and certified, then from the day of the delivery of such notice, the trustees therein named shall be a body corporate, under the name of "The Trustees of the Roman Catholic Separate School for the Section number \_\_\_\_\_, in the township of \_\_\_\_\_, or for the ward of \_\_\_\_\_, in the city or town (as the case may be) or for the village of \_\_\_\_\_, in the county of \_\_\_\_\_."

5. The trustees of separate schools heretofore elected, or hereafter to be elected according to the provisions of this Act, in the several wards of any city or town, shall form one body corporate, under the title of "The board of trustees of the Roman Catholic separate schools for the city (or town) of \_\_\_\_\_."

6. It shall be lawful for the majority of the rate-paying supporters of the separate school, in each separate school section, whether the sections be in the same or adjoining municipalities, at a public meeting duly called by the separate school trustees of each such section, to form such sections into a separate school union section, of which union of sections the trustees shall give notice within thirteen days to the clerk or clerks of the municipality or municipalities, and to the chief superintendent of education; and each such separate school union section thus formed shall be deemed one school section for all Roman Catholic separate school purposes, and shall every year thereafter be represented by the trustees, to be elected as in common school sections.

(1.) And the said trustees shall form a body corporate, under the title of "The board of trustees of the Roman Catholic united separate schools for the united sections Nos. (as the case may be) in the (as the case may be).

7. The trustees of separate schools forming a body corporate under this Act shall have the power to impose, levy and collect school rates or subscriptions upon and from persons sending children to, or subscribing towards the support of such schools, and shall have all the powers in respect of separate schools that the trustees of common schools have and possess under the provisions of the Act relating to common schools.

8. The clerk or other officer of a municipality within or adjoining, where a separate school is established, having possession of the assessor's or collector's roll of the said municipality, shall allow any one of the said trustees or their authorized collector to make a copy of such roll in so far as it relates to the persons supporting the separate school under their charge.

9. The trustees of separate schools shall take and subscribe to following declaration before any justice of the peace, reeve or chairman of the board of common schools:

"I, , will truly and faithfully, to the best of my judgment and ability, discharge the duties of the office of school trustee to which I have been elected."

And they shall perform the same duties and be subject to the same penalties as trustees of common schools; and teachers of separate schools shall be liable to the same obligations and penalties as teachers of common schools.

10. The trustees of separate schools shall remain respectively in office for the same periods of time that the trustees for common schools do, and as is provided by the thirteenth section and its sub-sections of the Common School Act of the Consolidated Statutes for Upper Canada; but no trustee shall be re-elected without his consent, unless after the expiration of four years from the time he went out of office; provided always, that whenever in any city or town divided into wards a united board exists, or shall be hereafter established, there shall be for every ward two trustees, each of whom, after the first election of trustees, shall continue in office two years and until his successor has been elected, and one of such trustees shall retire on the second Wednesday in January, yearly, in rotation; and provided also, that at the first meeting of the trustees after the election on the second Wednesday in January next, it shall be determined, by lot, which of the said trustees in each ward shall retire from office at the time appointed for the then next annual election, and the other shall continue in office for one year longer.

11. After the establishment of any separate school, the trustees thereof shall hold office for the same period and be elected at the same time in each year that the trustees of common schools are, and all the provisions of the Common School Act relating to the mode and time of election, appointments and duties of chairman and secretary at the annual meetings, term of office and manner of filling up vacancies, shall be deemed and held to apply to this Act.

12. The trustees of separate schools may allow children from other school sections, whose parents or lawful guardians are Roman Catholics, to be received into any separate school under their management, at the request of such parents or guardians; and no children attending such school shall be included in the return hereafter required to be made to the chief superintendent of education unless they are Roman Catholics.

13. The teachers of separate schools under this Act shall be subject to the same examinations, and receive their certificates of qualifications, in the same manner as

common school teachers generally, provided that persons qualified by law as teachers, either in Upper or Lower Canada, shall be considered qualified teachers for the purposes of this Act.

14. Every person paying rates, whether as proprietor or tenant, who, by himself or his agent, on or before the first day of March in any year gives, or who, on or before the first day of March of the present year, has given to the clerk of the municipality notice in writing that he is a Roman Catholic, and a supporter of a separate school situated in the said municipality, or in a municipality contiguous thereto, shall be exempted from the payment of all rates imposed for the support of common schools, and of common school libraries, or for the purchase of land or erection of buildings for common school purposes, within the city, town, incorporated village or section in which he resides, for the then current year, and every subsequent year thereafter, while he continues a supporter of a separate school; and such notice shall not be required to be renewed annually; and it shall be the duty of the trustees of every separate school to transmit to the clerk of the municipality or clerks of municipalities (as the case may be) on or before the first day of June in each year a correct list of the names and residences of all persons supporting the separate schools under their management; and every ratepayer whose name shall not appear on such list shall be rated for the support of common schools.

15. Every clerk of a municipality, upon receiving any such notice, shall deliver a certificate to the person giving such notice, to the effect that the same has been given, and showing the date of such notice.

16. Any person who fraudulently gives any such notice, or wilfully makes any false statement therein, shall not thereby secure any exemption from rates, and shall be liable to a penalty of forty dollars, recoverable with costs before any justice of the peace at the suit of the municipality interested.

17. Nothing in the last three preceding sections contained shall exempt any person from paying any rate for the support of common schools or common school libraries, or for the erection of a schoolhouse or schoolhouses imposed before the establishment of such separate school.

18. Any Roman Catholic who may desire to withdraw his support from a separate school shall give notice in writing to the clerk of the municipality, before the second Wednesday in January in any year, otherwise he shall be deemed a supporter of such school; provided always, that any person who shall have withdrawn his support from any Roman Catholic separate school shall not be exempt from paying any rate for the support of separate schools or separate school libraries, or for the erection of a separate schoolhouse imposed before the time of his withdrawing such support from the separate school.

19. No person shall be deemed a supporter of any separate school unless he resides within three miles (in a direct line) of the site of the schoolhouse.

20. Every separate school shall be entitled to a share in the fund annually granted by the legislature of this province for the support of common schools, and shall be entitled also to a share in all other public grants, investments and allotments for common school purposes now made or hereafter to be made by the province or the municipal authorities, according to the average number of pupils attending such school during the twelve next preceding months, or during the number of months which may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils attending school in the same city, town, village or township.

21. Nothing herein contained shall entitle any such separate school within any city, town, incorporated village or township, to any part or portion of school moneys arising or accruing from local assessment for common school purposes within the city, town, village or township, or the county or union of counties within which the city, town, village or township is situate.

22. The trustees of each separate school shall on or before the thirtieth day of June, and the thirty-first day of December of every year, transmit to the Chief Superintendent of Education for Upper Canada, a correct return of the names of the children attending

such school, together with the average attendance during the six next preceding months, or during the number of months which have elapsed since the establishment thereof and the number of months it has been so kept open; and the Chief Superintendent shall, thereupon, determine the proportion which the trustees of such separate school are entitled to receive out of the legislative grant, and shall pay over the amount thereof to such trustees.

23. All judges, members of the legislature, the heads of the municipal bodies in their respective localities, the chief superintendent and local superintendent of common schools, and clergymen of the Roman Catholic Church, shall be visitors of separate schools.

24. The election of trustees for any separate school shall become void unless a separate school be established under their management, within three months from the election of such trustees.

25. No person subscribing towards the support of a separate school, established as herein provided, or sending children thereto, shall be allowed to vote at the election of any trustee for a common school in the city, town, village or township in which such separate school is situate.

26. The Roman Catholic separate schools (with their registers), shall be subject to such inspection as may be directed, from time to time, by the Chief Superintendent of Education, and shall be subject also to such regulations as may be imposed, from time to time, by the Council of Public Instruction for Upper Canada.

27. In the event of any disagreement between trustees of Roman Catholic separate schools and local superintendents of common schools, or other municipal authorities, the case in dispute shall be referred to the equitable arbitrament of the Chief Superintendent of Education in Upper Canada; subject, nevertheless, to appeal to the Governor in Council, whose award shall be final in all cases.

28. This Act shall come into force and take effect from and after the thirty-first day of December next; but all contracts and engagements made, and rates imposed, and all corporations formed under the separate school law, hereby repealed, shall remain in force as if made under the authority of this Act.

THE HON. THOMAS D'ARCY McGEE ON THE SEPARATE SCHOOL BILL  
OF 1863. SPEECH DELIVERED IN THE LEGISLATIVE ASSEMBLY OF  
QUEBEC.

Now that the interesting debate on the North-west Autonomy Bills is advanced to the stage of the second reading in the House of Commons, and with the echoes of the verbal strife over the educational clauses yet in our ears, it may be refreshing, as it must be instructive, to listen for a moment to a voice which was never raised except in a just cause, and which as far back as the year 1863, won on this very question of Separate Schools a signal triumph for the side of tolerance. The occasion was the introduction of a Bill in the Legislative Assembly of Canada, then meeting in Quebec, to amend the Separate School Act of Upper Canada.

Mr. Edward R. Cameron, the Registrar of the Supreme Court, Ottawa, in his interesting work, "Memoirs of Mr. Ralph Vansittart, a Member of the Parliament of Canada, 1861-1867," says, "the object of the Bill was to reduce the number of Roman Catholics required for the establishment of a separate school, and making it possible to extend the system into sparsely settled districts. As was to be expected, the Bill was bitterly opposed by the extremists' section of Upper Canada's opposition, which declared its intention to fight the Bill at every turn, for they looked upon it as destructive of the public school system of their province. The Bill was finally carried, and a motion to give it the six months' hoist voted down by a very large majority, the vote standing 93 to 13. This result was largely obtained through the stand taken by Mr. McGee. He was now recognized as one of the most powerful debaters and ablest men in the House, and his support was recognized as essential to any successful attack by the opposition upon the government. His views on the Bill were expressed in the most explicit terms, and the result to be looked for if the ultra Grits should show their illiberality by voting against it. So vigorous was his support of the Bill, and so menacing his language to those of his party who should oppose it, that he fairly whipped into line more than one-half of the opposition members from Upper Canada."

Hon. Thomas D'Arcy McGee: As that member of this House, Mr. Speaker, who has presented the largest number of petitions praying for this measure—as honoured by the petitioners by such a mark of their confidence—I sincerely hope the Bill now before the House may become, as I think it ought to become, the law of the land. (Hear, hear). If it should so become at this session, we will have the satisfaction of knowing that, after years of persevering advocacy we have settled a long vexed question, not only to the satisfaction of Roman Catholics, but to the very great relief of the rest of the country. (Hear, hear). In rising to make the observations which I feel it my duty as the spokesman of so many of the petitioners, to offer to the House, I cannot but congratulate the House and the country on the good temper, and if I may say so, the good taste which has characterized this discussion, to which I have listened with great attention, but I am bound to say not without pain. From the moment I first entered upon my parliamentary duties, I have continued to act with the opposition, I have given them a bold, hearty and unstinting co-operation; but I must take this opportunity of saying that if the course of this debate should satisfy me that the religious liberties of the Roman Catholic minority of the people of Upper Canada were more safe in the hands of what is called the Conservative party than what they are in the hands of the Reform party in this House, however painful it may be to me personally, I shall not hesitate to make my choice in favour of the party which guaranteed the religious rights and liberties of the Roman Catholic minority of Upper Canada. And no earthly object would deter me from preferring the Conservative party, if they are tolerant on this question, to any other party who are intolerant, no matter what are the points on which I agree or disagree with them in

reference to the other subjects which come before the House and country. I have always maintained that there is more liberality existing in the ranks of my western friends on subjects of this description than is to be found on the ministerial side of the House. But there has not hitherto been such a practical test since I have had the honour of holding a seat in the House, as is now introduced by this Bill. This is indeed a practical test, and I will say, that for my part I will make up my mind as to the side on which the greatest amount of liberality and toleration existed by the result presented when the vote was taken.

I deeply regret to find, Sir, from the reference of the honourable member from South Lanark (Mr. Morris) that a remark of mine last year in which I called the six months' hoist "the Parliamentary Bludgeon," seems to have rankled in his memory, and that an honourable member who came to the House with such a high reputation and character as his should choose almost as his first act in the political arena of the province to put himself in the position of the anti-Catholic leader on the floor of the Legislature. He ought to have left that piece of work to the hon. member for South Simcoe (Mr. Ferguson), the worthier and older soldier of intolerance. (Laughter.) The hon. member for South Simcoe referred to me last night. It was unnecessary to reply, inasmuch as the hon. gentleman was himself his best illustration. (Laughter). The hon. member also complained of the hon. member for Ottawa comparing him (Mr. Ferguson) to Guy Fawkes. (Laughter). This, I think, was hardly fair—that is to say, it is hardly fair to poor Guy Fawkes. (Renewed laughter.) And as that Guy—I do not now speak of the other Guy—has nobody else to speak for him, I think it is only an act of justice that I should defend him from the charge which the hon. member for Ottawa has brought against him. (Laughter.) It is said that this is a Bill promoted by the clergy only. No, I do not represent any ecclesiastical interest on the floor of this House; and I must declare that the Bill is a layman's bill—that it is not demanded so much by the clergy as by the laity. (Hear, hear). I am sorry, indeed to hear it said by one or two members that this Bill is the result of ecclesiastical dictation. To that I reply that if this could be demonstrated as a fact I would be ready to oppose it. It is a Bill demanded by the laity. The hon. member for Middlesex said that he had never heard a Roman Catholic layman in Middlesex ask for separate schools. It seems that the hon. member regards all the Roman Catholic laity as a pack of slaves who have no opinions of their own, but are entirely at the mercy of their priests. However, the true tone of moderation on this subject has been given by the hon. member for North York, who admitted that the principle has been recognized and could not now be taken back: and in accordance with that principle the legislature was bound to concede the means and machinery to carry it out. If it did not, it only gave "the word of promise to the ear and breaketh to the hope." Was the extension of the machinery proposed by the hon. mover of the Bill necessary? If the House believed the assertion of the applicants for the Bill, it was so. If we do not believe them, we could refer to the causes, and it would be found that the majority of Roman Catholics in Upper Canada lived in the rural districts. In towns and cities people would classify themselves and educate their children. The Roman Catholics in the cities were about only one-third or one-fourth, while in the ten or twelve counties where they chiefly resided, they were in several cases one-fifth, one-fourth, one-third, and in others over one-half of the population.

I say that if the machinery necessary to give effect to the principle which it was admitted on all sides had long been conceded were not afforded, it would not only be unfair but a gross absurdity. As to the separate schools, I wish them to be in every way as efficient as the common schools, and I am prepared to allow any change in the Bill to secure that result. I ask those who said the separate schools could not be so good as the other schools to give a separate normal school and a regular system of inspection, so that the fullest efficiency might be secured, and not one shilling expended without proper vouchers that it was expended for the objects for which it had been subscribed. It has been insinuated that the clergy would get the money and apply it to other purposes. But I would like to see any man do such a thing in the

same place a second time in his life. The fact is this class of men especially depend very much upon the good opinion of their fellow-creatures and live chiefly by their good reputation. I know that while these men enforce awe by the solemn character of their profession, yet I assert that any one man guilty of such an act as has been supposed could not continue to live where he committed the wrong. Then some one has referred to the absence of petitions on the subject. In 1859 I, myself, presented 63 petitions in favour of separate schools, with an aggregate of 7,759 names, which surely showed that the Roman Catholic laymen—for there was not a clerical name in these petitions—were in favour of the measure. Now, it is said, that the Protestants of Lower Canada do not ask for such things as the Roman Catholics of Upper Canada do, but that only shows that they are satisfied with such schools as they have.

The case is precisely reversed in respect of the Roman Catholics of Upper Canada; and now, at the end of sixteen years, they are asking for what they have always asked and always have considered due them, while the Protestants in Lower Canada have received what they wanted or thought they wanted. In Chapter 15 of the Consolidated Statutes, establishing the dissentient schools in Lower Canada, it is provided that when any number of dissentients were dissatisfied with the common schools they could meet, and appoint trustees and establish a school of their own.

It was objected to the Bill before the House that five were too few to form a meeting; and perhaps five were; yet, as I have shown, any number in Lower Canada could form a meeting for this purpose. Then, the Lower Canada law granted to dissentents their share of the school funds according to their numbers, which was denied to the Roman Catholics of Upper Canada. Then, as to the union of sections the same law conceded, for the Lower Canada dissentents, what was asked for by the Bill under debate, and in all these respects that Act was a model of liberality not equalled by the Bill before the House. I venture to tell the hon. member who has moved for the six months' hoist that he is mistaken if he thinks to discourage and defeat the people who ask for the measure. These people fought a greater battle in the Imperial parliament, which had only ended thirty-three years ago, and that with a complete victory. They were resolved never to be satisfied with anything less than equal rights and privileges with their fellow subjects, and as they had before succeeded so would they in relation to this measure.

Whoever voted against the Bill would write himself down as an enemy of religious freedom, and those members who gave it their support would proclaim a true liberality whatever be the partisan name they bore.

Before I had the honour of a seat in this House, I remember reading, with regret, discussions which had taken place on this subject; but I think I can appeal to the House that though I have for six sessions never lost an opportunity of advocating my own side of the question, I have always conducted that advocacy in a spirit and temper worthy of this House, and of the problems involved in the subject of the education of the people. (Hear, hear.) I regret to find, sir, from the opponents of this Bill that they felt aggrieved at being spoken of for their opposition to Catholic claims as enemies of religious freedom. Well, sir, looking back on that discussion of last year, looking at it quite coolly, with the additional responsibility of their ministerial position, I do not hesitate to say now that those who would refuse a whole community of people coming to this House in a very proper manner for legal redress, a committee of inquiry into alleged grievances, cramping and oppressing conscience—that those who would reject their prayer, answering it by a summary negative, are, from my point of view, enemies to religious freedom. (Cheers.) I do not say—I do not believe that those who did so then, or who would do so now, imagine they are hostile to the religious liberties of the petitioners. They may and do say there is no question of religious liberty at all in the matter, but who is to decide whether there is or is not? The Catholics—the petitioners—assert in the most solemn manner that they cannot in conscience divorce religious from secular instruction in schools which they support. Are you to be judges for them as to what their consciences ought to determine in this matter? Are

they to be guided by your consciences or their own? (Laughter.) They say they are aggrieved in conscience; they therefore come before the legislature and, over their own signatures assert that they have conscientious objections to the common or mixed system. You say they ought not to have such objections, that there is nothing in them, that they are either fancied or simulated, and so you summarily reject their prayer for redress. Is this in accordance with the first principle of religious freedom, that you constitute yourself their judges in *foro conscientiae*? Let us consider this case, by comparison with our conduct towards others who plead such scruples against the execution of any existing law. The people called Quakers, and others, say they have conscientious objections to invoke the name of God in giving testimony in courts of justice. I may think and you may think them wrong; we may think the oath essential to the solemnity of the evidence—and yet we give way to the Quaker's scruples—we allow him to speak for his own conscience, and to testify after his own fashion. The Israelite buys and sells on the day you call the Sabbath, and the dissenter on days established by law as *fêtes d'obligation* in Lower Canada—yet we will not strain the law to prevent either from collecting debts contracted with them on those days however you or I think they ought to be kept sacred. The sect Tunkers are non-combatants, and have conscientious objections to shed blood even in self-defence. You and I consider that it is the duty of every man protected by the laws, unless exempt by physical infirmity, to lay down his life if necessary in defence of his country; yet we exempt the Tunker and the Quaker from the requirements of our general law of military defence. (Hear, hear.) In each case we allow the people who claim exemption from the operation of any statute conflicting with their conscientious belief to speak for their own consciences, and unless you charge the Roman Catholic body of Upper Canada with coming here with a lie in their mouths—unless you think, as has been foolishly said by the honourable member for Simcoe (Mr. Ferguson), that they are merely moved by others in this matter—you are bound, if you be friends of religious freedom, to respect their plea of conscientious conviction, and to exempt them from the imposition of your opinions, as opposed to theirs, on this subject of education. (Hear, hear.) For, Mr. Speaker, no one has ever denied, to my knowledge, that it, in one of its aspects at least, is a religious question. It concerns the mind, the spirit, the immortal soul, as well as the perishable body; it concerns the invisible future to which we are all marching even while we stand still—in which we must all exist well or ill; well, as we may humbly hope, and well to be received there. Whether you put the secular before the spiritual end of man, whose destiny here we all know is death, or whether we put the other world before this in consequence, no one can deny that in one of its aspects the tuition of the mind is a religious interest of the highest concern, and that those who plead religious objections to the divorce of religion from school teaching are entitled in a free state to have their religious freedom respected by the secular authority—"the state."

My theory of religious freedom, sir, is this, that as long as any body of people, Pagan or Christian, render the minimum of obedience to the civil power, as long as they dwell in peace within the precincts of the constitution anywhere, they are entitled to the maximum of freedom in the exercise of their religious practices, doctrines and worship. Let them bear the burthens of taxation, obey the tribunals, fulfil their contracts, and be governed by the common moral obligations sanctioned in the law of the land, and as for my part, speaking as a legislator, they may believe or disbelieve whatever they like or dislike. (Cheers.) My hon. friend from Leeds and Grenville (Mr. Jones), says I was formerly in favour of the Irish national system, and of its introduction in this country. Sir, I was in favour of that system as originally expounded by Lord Derby, then Mr. Stanley, in the charter of the system—his letter of 1831. But that system combined religious and secular instruction in the daily routine of the scholar's life. On certain days of the week, or on every day if the local visitors so decided, the board was turned which announced the ordinary studies at an end, and either catechetical or biblical instruction about to begin. The minority, if Protestant, had to withdraw—or if Catholic, had to withdraw. But the character of the Irish

system of 1831—"common, secular and separate religious instruction"—has not been observed; whether it was found impracticable, or whether the secular element encroached continually upon the religious element, I am not prepared to say; but, at this moment, the fact is that 90 per cent of the Irish schools both in Ulster and the other provinces are practically denominational schools. (Hear, hear.) Sir, those who uphold the common or mixed system of public instruction, assume a tone of confidence amounting to certainty as to the immense benefit of this system; they speak to us, who stand on the old *salutary sensus communis* of Christendom, as if we were the challengers; as if they were in possession; as if their theories had been tried by the elements of ages and had borne fruit which every one could see and feel and banquet on. Now, what is the true relative position of the two arguments. Can they show—can my hon. friend from Peterboro' (Col. Haultain), whose earnestness on all subjects I respect, who I am certain would no more fall down before a popular fallacy than before an enemy in the field—(cheers)—can he, or any advocate of strict secularization, show me any enduring character that ever was moulded without a strong infusion of a dogmatic religion of some sort? Even the wise Athenian, to whom my hon. friend referred, would have reverence for the immortal gods, and especially for the gods of Greece, taught in public. I will not speak of Catholic ages and countries—but in Scotland, Switzerland, Holland, do they launch men upon the voyage of life without a strong infusion of dogmatic religion—without a standard of right and wrong—without an ethical compass by which they may tell the moral north from the moral south, which will tremble with magnetic sensibility to the point of honour and the path of duty. (Cheers.) I do not intend here and now, Mr. Speaker, to discuss the general question, but I repeat that the opponents of combined religious and secular teaching beg the whole question when they assume their project of yesterday to be alone right and the common sense of Christendom wrong, since the creation of the family institution—the oldest and most sacred institution in the world—an institution unknown to Asia and to Africa—which we of America have copied from Europe, and which we have yet to naturalize and establish in this new civilization, in this new soil. (Cheers.) The common or state school system, which leaves a Christian family out of account as an institution, was the creation of two despots. It was conceived in Prussia by Frederick the Great when he strove to weld together his scrap-iron empire; it was followed in France during the Revolution by that other infidel, Talleyrand, the apostate bishop of Autun, and some ill-wind blew it over to Boston, which every one knows is "the hub of the universe," without which the earth would run off its rusty old axis. (Laughter.) The local pride of Boston—a city of bookmakers and ideologists, where they make maps of the Union fill three-fourths of the atlas—(laughter)—has been associated for thirty years with this Franco-Russian despotism of public instruction, and has helped to spread its pretensions over most of the United States. But will any man in Boston, not an orator or editor, or echo of the locality, tell you that it has made this generation of men, not to speak of women, better sons or better husbands, with a keener sense of mercantile or personal honour, with a greater reverence for law, authority, age and magistracy, than the colony-bred men, their ancestors, or the private school-bred men of the last generation? I do not think, I may say I know, that many of the most thoughtful men in the United States do not believe that purity, that heroism, that self-denial, that subordination to lawful authority, are lessons learned in the common schools; that many of the best families will not trust their own children among the juvenile mob at the primary schools; that though a Boston high school of this age would throw the log school of Henry Clay or the New Hampshire college of Daniel Webster into the shade—that the type of character fashioned in those foundries of mind, so far as tested, has not answered to the high pretensions of the educators on this system. They answer very well as crushing mills to manufacture natives out of Germans or Hibernians; but in the city of Boston, where the common schools were as good as it was possible to make them, the larger number of children went to select schools. The citizens in good circumstances generally were willing to pay for the education of the *profanum vulgus*, but they chose for themselves other and private means of education. Such, I think, would be the candid answer of the modern Athenian,

not professionally bound to uphold his own town as the tripod of the new western civilization. (Cheers.) No one can show me any enduring national character that ever was moulded without a strong infusion of dogmatic religion of some sort.

Some honourable members, Mr. Speaker, have spoken of this demand for separate schools in Upper Canada as a priests' question, but nothing could be further from the fact. I assert, of my own knowledge, in the name of thousands of parents whose petitions are on your Table, that this is a fathers' and mothers' Bill, much more than a priests' Bill. (Hear, hear.) It would be, as I have often before observed in this House, a very great error to assume that this measure is not asked for by the Catholic laity, in the exercise of their own conscientious judgment of what was best for their children. (Hear, hear.) It is to the credit of our human nature that the mass of men, however poor their practice, do still keep in view the great goal of life, especially when they speculate not only on their own future, but on the future of their children. The mysterious relation of parent and child inspires the hearts of all but the very solid or the very depraved with a double anxiety concerning that hereafter, into which we must all enter, whether we sing with the psalmist the canticle of the resurrection, or ask with the skeptic, "can lines finite one way, infinite another?" There must be in every father's heart a latent or an active sense of responsibility for the spirit and genius of his child, as well as for his flesh and blood. The parent is not alone the parent of the body, but of the mind; the mother is not alone the nurse of the person, but the governess of the soul—all that goes to make up character, morality, are charges upon the parental office, just as much as all that goes to make up shelter, or cookery, or clothing. The question before this House had its origin in the deepest and most enduring elements of our nature; it is not a got-up debate; it is not a temporary interest; it could only to be settled in one way, and that is to allow the petitioners to try it out in practice. (Hear, hear.) I should be sorry, Sir, that any one in the House or the country should continue under the supposition that it is a priests' Bill, rather than a parents' Bill, or that the Catholic laity have not in good faith asked for this amended legislation for their own sakes. I am free to confess that there are times and subjects in which I would deprecate the interference of priests as much as any layman living, but I am not at all afraid, for my part, that in this country and in this century, the ecclesiastical order will become disproportionately powerful. The tendency of all the modern forces is to *laicize* Christian society—if I may coin a word—it has been so ever since the learned professions of law and medicine were shut against clerks in orders; ever since commerce and banking became a recognized profession of peace; ever since printing made knowledge common. Modern force no more distinguished in favour of a man in orders from a man out of orders, than the steam-press could tell for whom it was working. (Hear, hear.) There is no danger that a priestly caste can ever arise in our times, out of our society; but there may be danger, and I think there is danger, that in these new realms, so bare of all tradition—so far apart from our own old inheritance—gross materialism may spread into excessive dimensions—the sceptre of the fireside may be broken, and the moral magistracy of the parent be overthrown. (Cheers.) Old people are at home in old countries; young people in young countries. All the indices of our society seem to me to veer away from the ~~cross~~ and the throne, to point towards money and earthly advantages. If the Catholic nobility of Upper Canada, holding still, as it were in solution, a greater body of Christian tradition than other classes of the population—if they should be able to show to Canada and the continent how it is possible practically to unify the three great social forces—the parent, the pastor and the State—in the great work of the formation of youth, it does seem to me, Mr. Speaker, that they will have effected one of the noblest and most desirable reforms within the compass of human achievement. (Cheers.) For my part, I feel so strongly that they are right, that I do not hesitate to say that if, on the one hand, it was in my power to give to my own children all the secular knowledge that Alexander Von Humboldt carried to the grave—and he mastered, perhaps, as much as one man ever did—or—observe—to give them, on the other hand, the Christian catechism and some of those old songs of our ancestors that infuse heroism and fortitude

and affection into the heart—if I had to choose between them, I would not hesitate a moment to choose the old songs and the little six-penny catechism. (A voice, "buncombe.") Mr. McGEE continued—I think I heard an hon. member mutter the word "buncombe". Well, Sir, it may be buncombe to the hon. member, whoever he is, but when he has given as many hours' thought to this subject as I have given days', he may find some reasons to change his contemptuous opinion of the influence of the common Christian doctrine, and of the songs of the nursery and the fireside, in the formation of character, which I take to be the end and aim of all education. (Cheers.) I observe it has been assumed in this debate, as an argument against the proposed concession, that if additional separate schools are established, the children of Catholics will be uneducated or ill-educated. Mr. Speaker, I shall only say, that we may trust human nature and parental pride and social rivalry for that. Are Catholics less prone than other people to fancy their children the cleverest ever were seen? Are they less ambitious of their success in life? Are they more disposed to see them in subordinate positions in the professions, in business or in society? I do not think there is any danger in that direction, which would justify us in putting a whole body of people in a state of tutelage such as this objection would imply. (Hear, hear). Sir, my hon. friend from Glengarry (Mr. D. A. Macdonald) who is so good a cosmopolitan that he has no partiality even for his own religion—(laughter)—has moved his amendment to protect the Protestant minority of his county. Now what is that minority, of whom alone my hon. friend can think in this case. In a single county—the county he represents—there is a minority of 651 persons; there are over 10,200 Protestants to 10,900 Roman Catholics; and for this solitary exception my hon. friend would cripple the school bill for all the rest of the province. (Hear, hear). My hon. friend need not fear for the religious liberties of the Protestants of Upper Canada—they are four to one of the Catholics, they are the vast majority in every county council; they have every single member in this House from that section, but three; they have all the members of the Upper House, without exception; they are amply able to protect themselves. (Hear, hear). Those whom we need to protect is the one-fifth, not the four-fifths; and this law, whether it is exercised in all instances or not, will be a protection. It will be on the Statute book, it will be a possible remedy—it will be an unloaded gun in the House—(laughter)—useful; if it should be found necessary. It will secure, what in some localities nothing else could secure—fair play for the minority in the administration even of the common schools themselves, where no separate school exists or may be found necessary to be called into existence. (Hear, hear). Mr. Speaker, I have reason to believe that some members of this House who would have opposed the original separate school legislation incorporated with this Bill, if the question were now up for the first time, would yet willingly vote for these amendments of the machinery, if they were satisfied this measure would prove a settlement of the question. (Hear, hear). An hon. member has asked my hon. friend the member for Grenville, whose strong attachment to his own religious convictions is well known, and who spoke of treating this Bill as a finality, whether he was authorized to speak for the Catholic clergy and bishops in that respect. Of course, the question was not serious, nor do I know that any one here is so authorized, but I can say for myself, and from my knowledge of the Catholic laity generally, that they sincerely desire this thing to be put out of politics—that they desire a final settlement, and I believe will accept this measure as such settlement. (Hear, hear). I can only say for myself, that I will endeavour to the utmost of my power to make this settlement final so far as I am concerned if the Bill passes unmutilated, I will be no party to reopening the subject either in the House or in the country. (Cheers). It seems to me rather inconsistent that the opponents of clerical domination; as it is called, should also be the opponents of this Bill. (Hear, hear). It is not a fit argument for me, but it is a fair argument as against them to point out that the settlement of the school question, by removing the last political religious question from the campus, the hustings, the committee room, and the closet, will leave no ground for such interference hereafter. The exclusion of this question from the arena will

restore the rule of legitimate politics; it will no longer be possible for unfit and insincere men to find their way into this House, with the certificate of a Catholic bishop in the one pocket and the card of an Orange lodge in the other. Laughter.) It will enable all the decorous and dignified members of the clergy to decline interfering in party contests—and for this, if for no other reason, the settlement ought to be attempted. (Hear, hear). For myself, Sir, there is no place I would not rather see a priest than as a suppliant or an agent of any politician; there is no place I would rather not hear the voice dedicated to the service of the altar raised than in the uproar that surrounds the hustings. (Hear, hear). Great learning and high character will create a wide influence for clergymen, and great necessities may justify their active interference in political contests; but it is because, in addition to its justice, I believe this measure,—whether it answers all the expectations entertained of it or not—whether it is in all cases, or in many cases, put into operation or not—it is because I consider it, and accept it as an actual settlement, tending to the actual settlement, tending to the extinction of sectarian war—that I warmly desire its passage. (Cheers). I have never been a party to bigotry in the ranks to which I belong—whether aimed at leading individuals like my hon. friend, whom we are soon again to have in this House, I am happy to say, from South Oxford—(hear, hear)—or directed against classes or sects of our fellow subjects; I always felt that we are all interested—every way interested—in getting under and keeping under sectarian warfare—and for this crowning reason, I hope to see this measure passed into law during the present session. (Loud applause, amid which the hon. gentleman resumed his seat).

**EXTRACT FROM THE JOURNALS RESPECTING SEPARATE SCHOOLS DEBATE.**

The Honourable Member for Ottawa (Mr. R. W. Scott) moved the Second Reading of the Bill.

Resolved in the affirmative.

The Honourable Member for Glengarry moved an amendment to the Bill, as follows:—

"Provided always, that no such Separate Schools shall be established in any township unless the Roman Catholic residents therein constitute the 'minority' of the inhabitants of such school section."

Lost on division.

The Honourable Member for South Lanark (Mr. Morris) moved that the Bill be read this day six months.

*"For the Six Months' Hoist."*

**YEAS.**

Bell (North Lanark),	Ferguson,	Morris (South Lanark)	Notman,
Biggar,	Haultain,	Mowat,	Scatcherd, and
Burwell,	McDougall,	Munro,	Stirton—13.
Cameron, M. C.,			

**NAYS.**

Abbott,	Daoust,	Huntington,	Prevost,
Alleyn,	Dawson,	Huot,	Price,
Anderson,	De Boucherville,	Jobin,	Rankin,
Archambault,	De Cazes,	Joly,	Remillard,
Ault,	Denis,	Kierzkowski,	Robinson,
Baby,	Desaulniers,	Knight,	Robitaille,
Beaubien,	Dickson,	Laframboise,	Ross, John J.,
Bell (Russell),	Dorion,	Langevin,	Rymal,
Benjamin,	Dostaler,	Loranger,	Scott,
Beaudreau,	Drummond,	Macbeth,	Sherwood,
Blanchet,	Dufresne, Alexandre,	Macdonald, Atty. Gen.	Sicotte,
Bourassa,	Dufresne, Joseph,	Macdonald, Donald A	Simard,
Bowen,	Dunkin,	Macdonald, John S.,	Simpson,
Brousseau,	Dunsford,	McCann,	Somerville,
Buchanan,	Evanturel,	McGee,	Starnes,
Cameron, J. H.,	Foley,	McLaughlin,	Street,
Carling,	Fortier,	Mongenais,	Sylvain,
Caron,	Fournier,	Morin, Sol. Gen.,	Taschereau,
Cartier, Atty. Gen.,	Gagnon,	Morrison,	Tasse,
Cauchon,	Gaudet,	O'Halloran,	Tett,
Chapais,	Harcourt,	Patrick,	Walbridge,
Connor,	Herbert,	Portman,	Walsh, and
Cowan,	Hooper,	Poupore,	Wilson.—93.
Crawford,			

**EXTRACT FROM "REMINISCENCES" OF THE HONOURABLE SENATOR  
A. A. MACDONALD, PRINCE EDWARD ISLAND, OF THE QUEBEC  
CONFEDERATION CONFERENCE—OCTOBER, 1864.**

"The Quebec Conference was opened on the 10th October.

\* \* \* \* \*

"On the 24th October, it was moved by the Honourable Oliver Mowat, of Upper Canada:

"That it shall be competent for the Local Legislatures to make laws respecting the following subjects:—

1. Agriculture.
2. Education.
3. Immigration.
4. The sale and management of Public Lands, excepting lands held for the general purposes of General Government.
5. Property and Civil Rights, excepting those portions assigned to the General Legislatures.
6. Municipal Institutions.
7. Inland Fisheries.
8. The construction, maintenance and management of Penitentiaries and public and reformatory prisons.
9. The construction, maintenance and management of Hospitals, charities and eleemosynary institutions.
10. All local works.
11. The Administration of Justice, and the constitution, maintenance and organization of the Courts, Civil and Criminal.
12. The establishment of local offices and the appointment, payment and removal of local officers.
13. The power of direct taxation.
14. Borrowing money on the credit of the province.
15. Shop, saloon, tavern and auctioneer's licenses.
16. Private and local matters.

"And after debate which continued all day, and after several amendments had been proposed, but not accepted, the first part of the Resolution, down to and including the word 'Agriculture' was agreed to. The motion for adjournment was carried at eleven o'clock at night.

"The Conference was resumed the following day, 25th October, with the debate on the motion of the Honourable Oliver Mowat, which was discussed clause by clause.

"The Honourable Thomas D'Arcy McGee, of Montreal, moved, seconded by the Honourable A. A. Macdonald, of Prince Edward Island, that the following words be added to item 2, 'Education':—

"Saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their denominational schools at the time when the Constitutional Act goes into operation," and after debate this was unanimously agreed to and forms part of the Resolutions adopted by the Conference."

\* \* \* \* \*

"This amendment formed the basis of the educational clause which was elaborated afterwards at the London Conference in 1866 and now is Section 93 of the British North America Act."

## EDUCATIONAL CLAUSE OF THE BRITISH NORTH AMERICA ACT, 1867.

93. In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

(1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

(2.) All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.

(3.) Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the Governor General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

(4.) In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

